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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,441	07/21/2005	Adam Raff	742408-3	2561
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NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			EXAMINER HOLLIDAY, JAIME MICHELE	
			ART UNIT	PAPER NUMBER
			2686	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/517,441	<b>Applicant(s)</b> RAFF, ADAM	
	<b>Examiner</b> Jaime M. Holliday	<b>Art Unit</b> 2686	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-135 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 68-73 is/are rejected.
- 7) ☒ Claim(s) 7-67 and 74-135 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/29/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on April 29, 2005 has been considered by the Examiner and made of record in the application file.

### ***Specification***

3. The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

### ***Claim Objections***

4. **Claims 67 and 133** are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in

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independent form. Claims 67 and 133 refer to drawings in the specification that do not define or narrow the scope of the preceding claims.

5. **Claims 7-66, 74-132 and 134-135** are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from other multiple dependent claims. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1-3 and 68-69** are rejected under 35 U.S.C. 102(e) as being anticipated by **Evans et al. (U.S. Patent # 6,690,918 B2)**.

Consider **claim 1**, Evans et al. clearly show and disclose operating communications devices that have a microprocessor, a display, an input control mechanism, and a wireless local-area-network protocol, reading on the claimed “communications device,” (col. 2 lines 25-26, 49-51), comprising:

local (real) profiles that reflect personal data such as appearance, interests, hobbies, income, marital status, and may include temporary information stored on each of the participating communications devices, reading on the claimed "memory adapted to store at least one profile of a user of the device, wherein the said at least one profile contains predetermined attributes and requirements of the user," (col. 2 lines 33-34, col. 8 lines 7-9);

receiving profiles, each communications device receiving profiles from other participating communications devices, reading on the claimed "transceiver adapted to transmit information relating to the said requirements to a compatible device and receive information relating to requirements of the said compatible device," (col. 2 lines 30-32);

comparing the received profiles to local profiles stored on each of the participating communications devices, the matching performed according to priority criteria, reading on the claimed "controller adapted to register a match between the said device and the said compatible device, only when the said attributes match the said requirements of the said compatible device," (col. 2 lines 32-37);

if a match occurs, the device making the match beeps, vibrates, or alerts the user in some other fashion, reading on the claimed "a user alert adapted to alert a user when the controller has established that a match has been made," (col. 6 lines 47-50);

initiating communication between the communications devices involved in the profile match, the communication initiated from the device registering the profile match, reading on the claimed "wherein the transceiver is further adapted to transmit a first match signal to the compatible device when the controller has established that a match has been made," (col. 2 lines 38-41); and

microprocessor that enables each device to match received (real) profiles with profiles (request) already stored, reading on the claimed "wherein the said device does not need to receive information relating to attributes of the said compatible device, in order to register a match with the said compatible device," (col. 36-37).

Consider **claim 2**, and **as applied to claim 1 above**, Evans et al. further disclose if a match, or in some embodiments, a partial match occurs, the device making the match beeps, vibrates, or alerts the user in some other fashion, and if a device is paged because of a matching profile, the owner of the device can see the real profile of the user operating the paging device, reading on the claimed "user alert is further adapted to alert the user only when the controller has established that a match has been made and that a match signal has been received from the compatible device, said match signal indicating that the compatible device has registered a corresponding match," (col. 6 lines 47-50, 59-62).

Consider **claim 3**, and **as applied to claim 1 above**, Evans et al. further disclose the communications devices have a display, reading on the claimed “the device further comprises a display,” (col. 2 lines 48-49).

Consider **claim 68**, Evans et al. clearly show and disclose a method for initiating communication between at least two users of two or more users operating communications devices on a communications network that have a microprocessor, a display, an input control mechanism, and a wireless local-area-network protocol, reading on the claimed “communications method,” (col. 2 lines 25-26, 49-51), comprising:

local (real) profiles that reflect personal data such as appearance, interests, hobbies, income, marital status, and may include temporary information stored on each of the participating communications devices, reading on the claimed “storing at least one profile of a user in a memory of a communications device, wherein the or each said profile contains predetermined attributes and requirements of the user,” (col. 2 lines 33-34, col. 8 lines 7-9);

receiving profiles, each communications device receiving profiles from other participating communications devices, reading on the claimed “using a transceiver of the device to transmit information relating to the said requirements to a compatible device and receive information relating to requirements of the said compatible device,” (col. 2 lines 30-32);

comparing the received profiles to local profiles stored on each of the participating communications devices, the matching performed

according to priority criteria, reading on the claimed “using a controller to register a match between the said device and the said compatible device, only when the said attributes match the said requirements of the said compatible device,” (col. 2 lines 32-37);

if a match occurs, the device making the match beeps, vibrates, or alerts the user in some other fashion, reading on the claimed “using a user alert to alert a user when the controller has established that a match has been made,” (col. 6 lines 47-50);

initiating communication between the communications devices involved in the profile match, the communication initiated from the device registering the profile match, reading on the claimed “using the transceiver to transmit a first match signal to the said compatible device when the controller has established that a match has been made,” (col. 2 lines 38-41); and

microprocessor that enables each device to match received (real) profiles with profiles (request) already stored, reading on the claimed “wherein the said device does not need to receive information relating to attributes of the said compatible device, in order to register a match with the said compatible device,” (col. 36-37).

Consider **claim 69**, and **as applied to claim 68 above**, Evans et al. further disclose if a match, or in some embodiments, a partial match occurs, the device making the match beeps, vibrates, or alerts the user in some other fashion, and if a device is paged because of a matching



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profile, the owner of the device can see the real profile of the user operating the paging device, reading on the claimed "user is alerted only when a match has been registered and a match signal has been received from the compatible device, the said match signal indicating that the compatible device has registered a corresponding match," (col. 6 lines 47-50, 59-62).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. **Claims 4-6 and 70-73** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Evans et al. (U.S. Patent # 6,690,918 B2)** in view of **Carlton et al. (Pub # U.S. 2004/0203363 A1)**.

Consider **claim 4**, and **as applied to claim 3 above**, Evans et al. clearly show and disclose the claimed invention except that the display of the communications device displays an indication of the profiles stored in the device.

In the same field of endeavor, Carlton et al. clearly show and disclose portable communication apparatus for match-making with a plurality of remote communication apparatuses, comprising memory means, a transceiver, and a processing device, reading on the claimed "communication s device comprising a memory, a transceiver and a controller," (paragraphs 18-21). Apparatus **101** comprises a display **104**, for interaction with the user of the portable communication apparatus. In standby mode, the display may, for example, indicate various graphical elements such as icons, buttons and dialog boxes that emanate from the application software such as various modules **800-816**, which are responsible for different tasks, such as profile data management (editing, storing and loading of WIA ("Who I am") profiles **213/217**), reading on the claimed "display is adapted to display an indication of the or each profile stored in the device," (paragraphs 57 and 91).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display stored profiles as taught by Carlton et al. in the communications device of Evans et al., in order to efficiently exchange and match profiles.

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Consider **claim 5**, Evans et al., as modified by Carlton et al., disclose the claimed invention **as applied to claim 4 above**, and in addition, Evans et al. further disclose a user may also signify a time period wherein the profiles may be considered active, reading on the claimed “device is further adapted to allow the user to designate which of the stored at least one profiles the user designates as active; the said memory is further adapted to store an indication of the active profile or profiles; and the communicator is further adapted to exchange information with a compatible device based only on the active profile or profiles,” (col. 8 lines 25-26).

Consider **claim 6**, Evans et al., as modified by Carlton et al., disclose the claimed invention **as applied to claim 5 above**, and in addition, Evans et al. further disclose device **42** can be similar in operation to a paging device and has at least a display screen, a limited key-pad, and a capability of receiving and sending messages from and to other like devices, reading on the claimed “device further comprises a keypad, said keypad being adapted to allow a user to activate a profile from those stored in the device,” (col. 6 lines 26-29). Since the keypad functions as the input device, it is inherent that it will be used to activate a profile.

Consider **claim 70**, and **as applied to claim 68 above**, Evans et al. clearly show and disclose the claimed invention except that a display of the communications device displays an indication of the profiles stored in the device.

In the same field of endeavor, Carlton et al. clearly show and disclose portable communication apparatus for match-making with a plurality of remote communication apparatuses, comprising memory means, a transceiver, and a processing device, reading on the claimed "communication s device comprising a memory, a transceiver and a controller," (paragraphs 18-21). Apparatus comprises a display, for interaction with the user of the portable communication apparatus. In standby mode, the display may, for example, indicate various graphical elements such as icons, buttons and dialog boxes that emanate from the application software such as various modules, which are responsible for different tasks, such as profile data management (editing, storing and loading of WIA ("Who I am") profiles), reading on the claimed "using a display to display an indication of the profiles stored in the device," (paragraphs 57 and 91).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display stored profiles as taught by Carlton et al. in the communications device of Evans et al., in order to efficiently exchange and match profiles.

Consider **claim 71**, Evans et al., as modified by Carlton et al., disclose the claimed invention **as applied to claim 70 above**, and in addition, Evans et al. further disclose a user may also signify a time period wherein the profiles may be considered active, reading on the claimed "allowing the user to designate which of the stored at least one profiles are

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designated as active; storing an indication of the active profile or profiles in the memory; and exchanging information with a compatible device based only on the active profile or profiles,” (col. 8 lines 25-26).

Consider **claim 72**, Evans et al., as modified by Carlton et al., disclose the claimed invention **as applied to claim 71 above**, and in addition, Evans et al. further disclose device can be similar in operation to a paging device and has at least a display screen, a limited key-pad, and a capability of receiving and sending messages from and to other like devices, reading on the claimed “using a keypad to activate a profile from those stored in the device,” (col. 6 lines 26-29). Since the keypad functions as the input device, it is inherent that it will be used to activate a profile.

Consider **claim 73**, Evans et al., as modified by Carlton et al., disclose the claimed invention **as applied to claim 72 above**, and in addition, Carlton et al. further disclose the communications apparatus comprises a display that may display various graphical elements such as icons, buttons and dialog boxes that emanate from the application software, reading on the claimed “using the display to display an indication of the active profile or profiles,” (paragraph 91). Since the display functions to display icons that emanate from the application software, it is inherent that the activated profiles using the software will display.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to display stored profiles as

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taught by Carlton et al. in the communications device of Evans et al., in order to efficiently exchange and match active profiles.

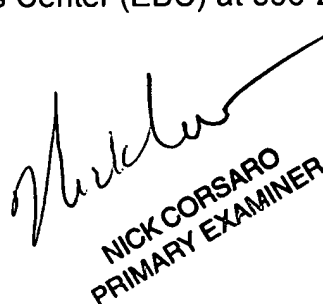
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaime M. Holliday whose telephone number is (571) 272-8618. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571) 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jaime M. Holliday  
Patent Examiner

  
NICK CORSARO  
PRIMARY EXAMINER